

KAREN P. HEWITT  
United States Attorney  
CAROLINE P. HAN  
Assistant United States Attorney  
California State Bar No. 250301  
United States Attorney's Office  
Federal Office Building  
880 Front Street, Room 6293  
San Diego, California 92101  
Telephone: (619) 557-5220

MAR - 4 2008

*[Signature]*

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

*08cr0585 JAH*

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
JOSE TORRES-GARCIA (2), )  
)  
Defendant. )

Magistrate Case No. 08MJ0445

**STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESS(ES) AND  
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

**IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Caroline P. Han, Assistant United States Attorney, and defendant JOSE TORRES-GARCIA, by and through and with the advice and consent of defense counsel, Stephen D. Lemish, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Harboring Illegal Aliens and Aiding and Abetting, in violation of Title 8, U.S.C., Secs. 1324(a)(1)(A)(iii) and (v)(II) (Felony)

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CPH:es

MWS on Bond: M. Mata-Simenez, P. Mata-Arreaga, L. Diaz-Gonzalez, J. Diaz-Morales, M. Soto-Davillas  
of P. Ramirez-Garcia

1           2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4           3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **March 20, 2008**.

6           4. The material witnesses, Jose Daniel Anaya-Silva, Mauro Luna-Briebiezca and  
7 Salvador Perez-Gomez, in this case:

8               a. Are aliens with no lawful right to enter or remain in the United States;

9               b. Entered or attempted to enter the United States illegally on or about  
10 February 13, 2008;

11              c. Were found in a house located at 3540 Sunset Lane, San Ysidro, California of  
12 which defendant was the caretaker and resided therein; and that defendant knew or acted in reckless  
13 disregard of the fact that they were aliens with no lawful right to enter or remain in the United States;

14              d. Were paying \$1,300 - \$1,800 to others to be brought into the United States  
15 illegally and/or transported illegally to their destination therein; and,

16              e. May be released and remanded immediately to the Department of Homeland  
17 Security for return to their country of origin.

18           5. After the material witnesses are ordered released by the Court pursuant to this  
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any  
21 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral  
22 attack, that:

23               a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

25               b. The United States may elicit hearsay testimony from arresting agents  
26 regarding any statements made by the material witness(es) provided in discovery, and such  
27

1 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements  
2 against interest of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
4 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
5 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
9 further that defendant has discussed the terms of this stipulation and joint motion with defense  
10 counsel and fully understands its meaning and effect.


11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
12 immediate release and remand of the above-named material witness(es) to the Department of  
13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

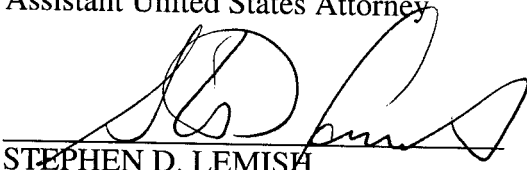
15 Respectfully submitted,

16 KAREN P. HEWITT  
17 United States Attorney

18 Dated: 3/4/08.

19   
CAROLINE P. HAN  
Assistant United States Attorney

20  
21 Dated: 3-3-08.

22   
STEPHEN D. LEMISH  
23 Defense Counsel for Torres-Garcia

24 Dated: 3-3-08.

25 Jose Torres  
JOSE TORRES-GARCIA  
26 Defendant

27  
28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Jose Torres-Garcia (2)

**ORDER**

Upon joint application and motion of the parties, and for good cause shown,

**THE STIPULATION** is admitted into evidence, and,

**IT IS ORDERED** that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

**SO ORDERED.**

Dated: 3/11/08.

W. M. F. [Signature]  
United States Magistrate Judge